

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

ORDER  
04-CR-292A

PATRICK M. COLE,

Defendant.

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This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1)(A). On April 1, 2005, defendant filed a motion to suppress evidence. On May 27, 2005, Magistrate Judge Foschio filed a Report and Recommendation, recommending that defendant's motion to suppress evidence be denied. On June 13, 2005, both the defendant and the government filed objections to the Report and Recommendation. Oral argument on the objections was held on July 27, 2005.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and

Recommendation, with one correction. On page 12 of the Report and Recommendation, Magistrate Judge Foschio states that “[n]o other address for Sans Suecie, Inc., is provided.” To the contrary, in paragraph 19 of the affidavit in support of the search warrant, FBI Special Agent Lafferty stated that “[a]n investigation . . . revealed a listing in the Erie County area talking phone book, 2003-2004 edition for a Sans Suecie, located at 85 Roma Avenue 14215 . . .” The defendant is accused of mail fraud in connection with a fraudulent investment scheme, known as a “Ponzi Scheme” involving Sans Suecie, Inc. He seeks to suppress evidence found at his residence at 85 Roma Avenue in Buffalo, New York. The fact that the then current telephone directory listed the defendant's home address as the business address for “Sans Suecie” provides even further support for the Court's conclusion that the motion to suppress should be denied.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, defendant's motion to suppress evidence is denied. The parties shall appear before the Court at 9:00 a.m. on Friday, August 26, 2005 for a meeting to set a trial date..

IT IS SO ORDERED.

/s/ Richard J. Arcara

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HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

Dated: August 25 , 2005

